

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of

UNDERSTEIN

Atty. Ref.: 2802-5 (AMK)

Serial No. 09/617,065

TC/A.U.: 3694

Filed: July 13, 2000

Examiner: D. Greene

For: WEB-BASED ACCOUNT MANAGEMENT

* * * * *

January 7, 2008

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant hereby **appeals** to the Board of Patent Appeals and Interferences from
the last decision of the Examiner.

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(I) REAL PARTY IN INTEREST

The real party in interest is eDEPOSIT Corporation.

(II) RELATED APPEALS AND INTERFERENCES

The Appellant, the undersigned, and the assignee are not aware of any related appeals, interferences, or judicial proceedings (past or present), which will directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

(III) STATUS OF CLAIMS

Claims 1-9 are on appeal in the present application. Claims 1-9 have been rejected. No claims have been substantively allowed.

(IV) STATUS OF AMENDMENTS

No amendments have been filed since the date of the outstanding Office Action.

(V) SUMMARY OF CLAIMED SUBJECT MATTER

The invention relates to an account management system for Internet commerce applications and, more particularly, to a system for qualifying a participant in a transaction over the Internet. The system acts as an intermediary or third-party participant that provides an Internet account/credit management system to eliminate the potential for fraud or abuse in an Internet-conducted transaction.

The specification initially describes the site architecture and system method with reference to an application to an auction company or Internet auction venue. In this context, as shown in Fig. 2, the system serves as an intermediary between sellers and bidders participating in an auction or other transaction over the Internet, and between the Internet auction site and the participants (sellers and bidders) in an auction. The system establishes and maintains bidder funding accounts to ensure sellers that bidder funds are available for any required deposits and bid amounts. The Internet auction site enlists the system to require bidders to maintain a bidder funding account, and the system tracks each bid of every auction simultaneously. See page 10, line 13 - page 11, line 2.

The system of the invention could thus be readily implemented into any transaction where qualification is desirable, such as between a vendor and its customers. In this context, when a participant desires to purchase a product or otherwise enter a transaction with a vendor, similar to the auction process of the invention when the participant is the high bidder, a hold is placed on the participant's consumer funding account as in step S13. See Fig. 4. If a deposit is required to enter into the transaction, a

first portion of the funding account is reserved corresponding to an amount of the deposit. If no deposit is required, only a second portion of the funding account corresponding to transaction costs may be reserved. This function is similar to a letter of credit or buyer qualification or the like for potential buyers. The system assures the vendor that identified buyers have met deposit requirements. See page 17, line 14 - page 18, line 3.

When it is determined that the transaction is complete, as in step S14, the purchase is accepted. Subsequently, the held funds can be transferred to the vendor directly from the funding account or alternative arrangements can be made. See page 18, lines 4-7.

The process of establishing an account is described with reference to Fig. 3. To establish an account, the user is prompted to complete a registration form via a link 26. Once completed, the user selects a user ID and password and is assigned an account number. The user can deposit funds via a link 28 by any suitable means, and funds are deposited into a system server bank account and tracked through a server database. Users can track and monitor their account at any time via a link 30, e.g., to determine an amount of interest earned or the status of holds on the account. See page 11, lines 3-22.

A balance in the account can be an amount of unreserved funds deposited in the account and/or an amount of unreserved credit in the account according to a line of credit provided to the user. See page 12, lines 5-8.

If the registered user intends to purchase an item requiring a deposit, the user is prompted to enter an identification number at the participating site, and through the system, it is determined if the deposit amount is available in the user's account. If so, the

system reserves a portion of the account according to a transaction parameter, which parameter is determined by one of the qualifying system, the buyer or the seller. See page 13, lines 13-21. See also page 13, line 22 - page 16, line 18.

INDEPENDENT CLAIMS

1. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 11, lines 8-20]

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor; [page 13, line 22 – page 14, line 9]

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and [page 17, lines 14-21]

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3]

4. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 11, lines 8-20]

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor; [page 13, line 22 – page 14, line 9]

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor, wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction; and [page 17, lines 14-25]

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3]

7. A computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor, the computer system comprising:

at least one user computer running a computer program that requests information according to a transaction inquiry input by the participant; and [page 5, line 9 – page 10, line 12; and page 13, line 22 – page 14, line 9]

a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server determining whether the participant has established a consumer funding account by depositing funds in the consumer funding account [page 11, lines 8-20], and if the participant has established the consumer funding account, the system server reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the system server, the participant or the vendor [page 17, lines 14-21], wherein the system server administers the consumer funding account, and wherein the system server qualifies the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3; and page 5, line 9 – page 10, line 12]

8. (Previously Presented) A computer program embodied on a computer-readable medium for qualifying a participant via a qualifying system over a global network in a transaction requiring a transfer of funds from the participant, the computer program comprising:

means for the participant to establish a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 5, line 9 – page 10, line 12; and page 11, lines 8-20]

means for the participant to enter a transaction requiring a transfer of funds from the participant to a vendor; [page 5, line 9 – page 10, line 12; and page 13, line 22 – page 14, line 9]

means for the qualifying system to reserve a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and [page 5, line 9 – page 10, line 12; and page 17, lines 14-21]

means for the qualifying system to qualify the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 5, line 9 – page 10, line 12; and page 17, line 21 – page 18, line 3]

9. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant entering a transaction requiring a transfer of funds from the participant to a vendor; [page 13, line 22 – page 14, line 9]

(b) the qualifying system determining whether the participant has established a consumer funding account, wherein if the participant has not established the consumer funding account, the qualifying system providing the participant an opportunity to establish the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 11, lines 3-15]

(c) after establishing the consumer funding account, the qualifying system continuing with the transaction; [see FIG. 4, steps S3-S6]

(d) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and [page 17, lines 14-21]

(e) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3]

(VI) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-9 are unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 5,794,207 to Walker et al.
2. Whether claims 1-9 are unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 6,240,396 to Walker et al.

(VII) ARGUMENT

1. Claims 1-9 are not unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 5,794,207 to Walker et al.

The present invention in claims 1 and 9 encompasses a method of qualifying a participant over a global network in a transaction requiring the transfer of funds from the participant using a qualifying system. Claim 7 defines a computer system for effecting qualifying of a participant in such a transaction, and claim 8 defines a computer program embodied on a computer-readable medium for qualifying a participant. As such, the method, system and program of the invention endeavor to encompass a precursor to an actual transfer of funds to complete the transaction. The qualification in fact typically enables participation in the transaction without necessarily including any funds transfer.

With regard to claim 1, an important and novel feature of the claimed invention is defined in step (c) wherein the qualifying system reserves a portion of the consumer funding account, which was established in step (a) by depositing funds in the consumer funding account and is administered by the qualifying system, according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor. In this context, the Office Action refers to Walker '207 at col. 17, lines 34-35. This section in Walker, however, describes step 610, wherein the payment processor 230 submits a pre-authorization of the price of CPO 100 to the credit card clearinghouse. Walker describes that this serves to "lock up" a portion of the available credit on the buyer's credit card, preventing the buyer from using up this credit while CPO 100 is still active. As discussed previously and in contrast with the claimed invention, the buyer's

credit card is administered by the credit card issuer (via the credit card clearinghouse) and is not in any manner administered by the Walker system.

The Walker system requires the payment processor 230 to request pre-authorization on the credit line of the buyer's credit card. See also Walker '207 at col. 8, line 66 – col. 9, line 5. Walker does not disclose an account that is administered by its system and that is established by depositing funds therein, wherein the system reserves a portion of the account according to a transaction parameter. The Examiner's reference to equivalent payment methods is irrelevant to the claimed reservation of a portion of the consumer funding account since, as discussed previously, actual payment or transfer of funds is readily distinguishable from the claimed system for qualifying a participant in a transaction. Indeed, the qualification in fact typically enables participation in the transaction without necessarily including any funds transfer. The Examiner's repeated references to "payment methods" in Walker evidences a misunderstanding of the claimed invention.

Walker does not disclose the use of an account administered by its system, nor does Walker disclose a system wherein funds are reserved in an account administered by its system according to a transaction parameter to qualify a participant in a transaction. Related subject matter is defined in independent claims 4 and 7-9 (discussed in more detail below). For at least these reasons, Appellant respectfully submits that the rejection is misplaced.

With regard to dependent claims 2 and 3, the Office Action references Walker at col. 7, lines 47-50 and col. 22, lines 20-23. The transaction parameter defined in the claimed invention, however, serves as a basis for which the qualifying system reserves a portion of the consumer funding account. The amounts referenced in Walker, in contrast, relate to funds transferred from the buyer to the seller, referring to a partial payment when CPO 100 is bound. As referenced above, Walker relates to a vehicle for completing a transaction, while the claimed invention relates to qualifying a party to participate in a transaction. Since Walker lacks any teaching of reserving a portion of a consumer funding account, the transaction parameters referenced in dependent claims 2 and 3 are also lacking.

With regard to independent claim 4, although the Office Action essentially re-prints the content of claim 4, the Office Action does not reference a single teaching in Walker that purportedly meets the claimed subject matter. The Office Action in fact does not even argue that the subject matter of claim 4 is anticipated in Walker '207.

Appellant respectfully submits that claim 4 is distinguishable from Walker '207 for at least the reasons discussed above with regard to claim 1. Additionally, claim 4 recites that step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction. In addition to lacking any reference to reserving any amount of a consumer

funding account, Walker lacks a teaching of reserving first and second parts of a consumer funding account as claimed.

Claim 5 defines a step of releasing the reserved portion of the consumer funding account when the transaction is completed. The sections referenced in the Walker patent relate to payment preferences, which as noted above, are irrelevant to the claimed reservation of a portion of a consumer funding account. Claim 5 expands on the notion that the qualifying system is distinguishable from a transfer of funds since the reserved portion is released [so as to be accessible by the consumer] when the transaction is completed (rather than being transferred to the seller – although the account could be used to transfer funds according to user preferences).

With reference to claim 6, the bonding agency referenced in the Walker '207 patent serves to verify buyer and seller ability to pay or deliver goods but does so via access to a third party source. In the example described in Walker '207, the system accesses the buyer's credit card issuer via a credit card clearinghouse. The subject matter of claim 6 is thus also lacking in Walker.

Appellant submits that the rejection of claims 7 and 8 should be reversed for at least the reasons discussed above with regard to claim 1.

With regard to claim 9, Appellant respectfully submits that claim 9 is distinguishable from Walker '207 for at least the reasons discussed above with regard to claim 1. Moreover, although the Office Action contends that Walker discloses its system providing the participant an opportunity to establish a consumer funding account, Walker

in fact does not disclose any such subject matter. Indeed, nowhere does Walker describe a consequence when a participant to a transaction has not established an account with the system. Fig. 13 in Walker illustrates a protocol in which the central controller 200 establishes a buyer account 297. Walker is silent with regard to a participant that attempts to enter a transaction requiring qualification without an account registered with the system.

Reversal of the rejection is thus respectfully requested.

2. Claims 1-9 are not unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 6,240,396 to Walker et al.

To the extent Walker '396 incorporates the subject matter of Walker '207, Appellant respectfully submits that this rejection is misplaced for the reasons discussed above with regard to Walker '207.

As discussed previously, Walker '396 additionally lacks any teaching or suggestion of a qualifying method wherein a consumer funding account is administered by a qualifying system. Rather, Walker utilizes a user's credit card, which is administered by the credit card issuer. At least this fundamental difference between the Walker patent and the claimed invention renders this rejection improper.

Walker '396 discloses a method and system for electronically facilitating buying and selling tickets for an event. Registered users supply credit card information so that offers to purchase tickets can be made as "guaranteed" purchase offers, and so that ticket sellers can be held accountable in the event that the product is not delivered. Step (a) in claim 1, however, defines a step of the participant establishing a consumer funding

account by depositing funds in the consumer funding account In this context, as noted above, Walker does not require a user to deposit funds in order to register with the system; rather, Walker requires that the user supply credit card information. See col. 4, lines 1-4 describing credit card processor 230; col. 4, lines 12-14; col. 5, lines 8-12; col. 6, lines 15-17; col. 7, lines 61-65; col. 11, lines 11-13; col. 12, lines 47-48; and others.

Moreover, claim 1 recites that the consumer funding account is administered by the qualifying system. The Walker system, through which users are able to sell and purchase event tickets, does not in any manner even remotely administer a consumer funding account as claimed, which in the context of the Walker patent is the user's credit card. As would be apparent to those of ordinary skill in the art, the user's credit card is administered by the credit card issuer.

With regard to reserving portions of accounts, the Examiner references Walker '396 at col. 8, lines 10-15. As noted, however, reservation of a consumer's credit line does not anticipate the subject matter of the claimed invention, wherein a qualifying system reserves a portion of a consumer funding account that is administered by the qualifying system and that is established by depositing funds in the consumer funding account. A credit card is rather administered by the credit card issuer, and reservation of a portion of a consumer's credit line does not anticipate reserving a portion of the claimed consumer funding account.

Appellant thus respectfully submits that this rejection is also misplaced.

CONCLUSION

In conclusion it is believed that the application is in clear condition for allowance; therefore, early reversal of the rejections and passage of the subject application to issue are earnestly solicited.

Respectfully submitted,

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(VIII) CLAIMS APPENDIX

1. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system;

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor;

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

2. A method according to claim 1, wherein the transaction parameter is a required deposit.

3. A method according to claim 1, wherein the transaction parameter is an amount of funds required to complete the transaction.

4. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system;

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor;

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor, wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction; and

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

5. A method according to claim 1, further comprising releasing the reserved portion of the consumer funding account when the transaction is completed.

6. A method according to claim 1, wherein step (c) is practiced by querying a network website server that maintains the consumer funding account.

7. A computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor, the computer system comprising:

at least one user computer running a computer program that requests information according to a transaction inquiry input by the participant; and

a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server determining whether the participant has established a consumer funding account by depositing funds in the consumer funding account, and if the participant has established the consumer funding account, the system server reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the system server, the participant or the vendor, wherein the system server administers the consumer funding account, and wherein the system server qualifies the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

8. A computer program embodied on a computer-readable medium for qualifying a participant via a qualifying system over a global network in a transaction requiring a transfer of funds from the participant, the computer program comprising:

means for the participant to establish a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system;

means for the participant to enter a transaction requiring a transfer of funds from the participant to a vendor;

means for the qualifying system to reserve a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and

means for the qualifying system to qualify the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

9. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant entering a transaction requiring a transfer of funds from the participant to a vendor;

(b) the qualifying system determining whether the participant has established a consumer funding account, wherein if the participant has not established the consumer funding account, the qualifying system providing the participant an opportunity to establish the consumer funding account, the consumer funding account to be administered by the qualifying system;

(c) after establishing the consumer funding account, the qualifying system continuing with the transaction;

(d) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and

(e) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

(IX) EVIDENCE APPENDIX

(NOT APPLICABLE)

UNDERSTEIN
Serial No. 09/617,065

(X) RELATED PROCEEDINGS APPENDIX

(NOT APPLICABLE)